

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* PIERSON/MILLER, Minors.

UNPUBLISHED  
March 19, 2015

No. 323319  
Branch Circuit Court  
Family Division  
LC No. 12-004727-NA

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Before: M. J. KELLY, P.J., and MURPHY and HOEKSTRA, JJ.

PER CURIAM.

Respondent-father appeals as of right the order terminating his parental rights to the minor children GP and CM under MCL 712A.19b(3)(c)(i) (failure to rectify conditions of adjudication), (g) (failure to provide proper care and custody), and (j) (children will be harmed if returned to parent). We affirm.

Respondent first argues that there was insufficient evidence to support the statutory grounds for termination cited by the trial court. If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proved by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011). “This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests.” *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). “A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made.” *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, “regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it.” *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Here, the trial court properly terminated respondent's parental rights pursuant to MCL 712A.19b(3)(g), which provides for termination when “[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.” With respect to this statutory ground, the trial court found that respondent lived a “nomadic lifestyle” throughout the proceedings, looked out only for himself, and was unable to

provide for his children. The trial court also took note of respondent's history of drug abuse, the numerous missed drug screens, his criminality, and respondent's "intentional desire to not follow" court orders and the case service plan.

Throughout the course of the proceedings, respondent failed to establish a stable home. He was incarcerated for several months and changed residences three times, including once when he moved out of state. At one point, respondent's caseworker did not know respondent's whereabouts for a six-week period. During the first six months of 2014, respondent bounced around from place to place, living with friends or family. Weeks before the termination hearing, respondent rented a house and was paying rent out of his savings. The caseworker expressed concern that respondent would be unable to maintain his housing long-term based on his history of changing residences. We agree that the record supports the conclusion that respondent had not demonstrated any stability with respect to housing. Furthermore, respondent was unemployed at the time of the termination hearing, and the record revealed that he was unable to maintain employment for more than a couple months at a time during the three-year period in which DHS was involved in respondent's case. Therefore, respondent's employment history in addition to his inability to maintain stable housing supported the trial court's finding that he was unable to provide proper care and custody for the minor children. See *In re BZ*, 264 Mich App 286, 300; 690 NW2d 505 (2004). Further support for the trial court's ruling came from respondent's abuse of controlled substances, his missed drug screens, his criminal record, and respondent's failure to comply with the case service plan.

Further, there is no evidence that respondent would have been "able to provide proper care and custody within a reasonable time considering" the minor children's ages. See MCL 712A.19b(3)(g). At the time of the termination hearing, the minor children were ages 3 and 1, and they had been in foster care for the majority of their lives. Given the length of the proceedings and respondent's lack of progress, the trial court properly found that respondent would not be able to provide a safe and stable home environment within a reasonable time. A positive change in respondent's ability to provide for the minor children was only a "mere possibility." See *In re Williams*, 286 Mich App 253, 273; 779 NW2d 286 (2009). Accordingly, the trial court did not commit clear error in deciding to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(g). Because we have concluded that at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision. *HRC*, 286 Mich App at 461.

Next, respondent argues that the trial court clearly erred by finding that it was in the best interests of the children to terminate his parental rights. Best-interest factors to be considered include "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012) (citations omitted).

Here, the trial court found that it was in the best interests of the minor children to terminate respondent's parental rights because the children's need for permanency, stability, finality, and safety outweighed their bond with respondent. The trial court further found that there was no reasonable likelihood respondent would be capable of providing for himself, let alone his children, with any degree of permanence.

The record established that the minor children were bonded with respondent and that respondent had a strong parenting ability. Nevertheless, the children's need for permanence and stability can outweigh the bond between parent and child. See *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). In this case, GP was removed from respondent in March 2012, when he was approximately 1-1/2 years old. GP was placed with relatives until October 2012, when he was returned to his mother's care.<sup>1</sup> GP was again removed from his mother's care in May 2013, and he remained in foster care until the termination hearing. CM was placed in foster care with GP in May 2013 and likewise remained there until the termination hearing. The children required permanence and stability; yet, respondent demonstrated no ability to provide it to them. He failed to maintain stable housing and employment, and he was noncompliant with drug screenings throughout the proceedings, despite warnings that such noncompliance evidenced a lack of commitment to the minor children. Moreover, the minor children were bonded to and well-adjusted to living with their maternal grandparents in foster care. Therefore, the trial court did not clearly err in finding that it was in the best interests of the children to terminate respondent's parental rights.

Respondent nevertheless argues that the trial court failed to consider whether a guardianship was an appropriate alternative to termination of his parental rights. However, the trial court is not required to place a child with relatives in a guardianship; rather, if it is in the child's best interests, the trial court may terminate parental rights rather than placing the child with relatives. *In re McIntyre*, 192 Mich App 47, 52-53; 480 NW2d 293 (1991). Here, in compliance with the directive in *Olive/Metts Minors*, 297 Mich App at 43-44, the trial court specifically indicated that it considered the fact that the minor children were placed with relatives but still found it in the best interests of the children to terminate respondent's parental rights. Given the record of respondent's issues with housing, employment, drugs, and criminality, along with the children's need for permanence and stability, the trial court did not clearly err in determining that termination rather than a guardianship was the proper course of action.

Affirmed.

/s/ Michael J. Kelly  
/s/ William B. Murphy  
/s/ Joel P. Hoekstra

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<sup>1</sup> The minor children's mother is not a party to this appeal.